REMARKS

Claims 1-47 remain in this application. No claims have been cancelled. Claims 1, 11, 21 and 35 have been amended. New claims 48-52 have been added.

Applicant thanks the Examiner for the detailed study of the application and prior art.

At the outset, Applicant adds new claims 48-52 that are independent claims that add the allowable subject matter of respective claims 2 and 3 (claim 48), claim 4 (claim 49), claim 7 (claim 50), claim 9 (claim 51), and claim 52 as reciting the allowable subject matter of the choosing of a second connection engine and attempting access to the server after failing access with the first connection engine.

Also, the independent claims 1, 11, 21 and 35 have been amended to place the case in condition for allowance such that the intelligent routing engine and associated method are operative with the database for querying the database and delaying any further attempts at accessing the server when the problem magnitude as a preset rate of decay exceeds a predetermined threshold.

The Examiner has rejected a number of claims as anticipated by U.S. Patent No. 7,213,065 to Watt and other claims as obvious over Watt in view of U.S. Patent Publication No. 2001/0032245 to Fodor.

Applicant contends that neither Watt nor Fodor individually nor in combination disclose or suggest and solve the technical problem associated with distinguishing between a permanent or persistent transient failures and accessing a server as claimed.

The claimed invention is directed to distinguishing between permanent or persistent transient failures and accessing a server such as on the internet from a client, for example, using a mobile wireless communications device. This could occur when a server consistently blocks access and an intermittent or transient failure is caused by other reasons. If it were possible to monitor every mail server or other internet server to be accessed, it would be possible to blacklist the particular server or devise a different connection engine route for a particular server. The claimed invention provides a decision that can automatically be made to determine when any reattempts should be made at accessing a server and whether a set period of time should be allowed to pass before reattempting access, or if a different connection engine should be used to initiate communication.

FIG. 6A as the flowchart in Watt shows that the database is queried, but further attempts at accessing the server are delayed. The flowchart in FIG. 6A is directed to a system in Watt that verifies a number of restarts that do not exceed a maximum per time interval such that if the limit is exceeded, a retry is made with a back-up failure mode or the server is rebooted.

Watt is directed to a management tool that streamlines a server allocation and provisioning process within a data center when a corporation operates a data center to provide applications and services for its customer end uses and internal operations. The provisioning process for a traditional server involves installing and configuring software on the storage devices of the server. Watt is directed to a dynamic server allocation and its provisioning

such that a large number of servers can be installed with the server provisioning allocated into two separate tasks.

A bootable system image is generated complete with network address assignments. The allocation process accomplished using a switching mechanism that can match each server with an appropriate system image based upon the current configuration or requirements of the data center. Watt accomplishes this through the storage element for storing server images and a load manager that assigns one of server images to each of the servers. Each server accesses only those portions of the image needed at any point in time and can incrementally load additional portions of the image on an as-needed basis. The server monitor receives a periodic heartbeat and load measurement signals from the servers in the data center via a communications network. Thus, the load manager can allocate and provision servers upon detecting failures as the lack of heartbeat signals from a particular server in the data center. This allows a load manager to allocate and provision servers according to predetermined criteria in response to the a load measurement signals received from the servers.

Thus, the system as explained in the system of FIG. 6A is directed to the number of restarts, but is not directed to intelligent routing and database for storing problem magnitudes and delaying further attempts when a problem magnitude as a preset rate of decay exceeds a predetermined threshold. Fodor simply shows POP, IMAP or httpmail protocol with a WAP or SMTP used in a load balanacing scheme.

It is clear that nowhere does Watt nor Fodor singularly or in combination disclose or suggest the

intelligent routing engine operative with the database for querying the database and delaying any further attempts at accessing the server when the problem magnitude as a preset rate of decay exceeds a predetermined threshold and thus solve the technical problem as described above. Indeed, at most, Watt and Fodor suggest the use of some type of intelligent routing engine that may delay accessing a computer based upon some threshold, but not based upon a preset rate of decay.

Accordingly, Applicant contends that the present case is in condition for allowance and respectfully requests that the Examiner issue a Notice of Allowance and Issue Fee Due. If the Examiner has any questions or suggestions for placing this case in condition for allowance, the undersigned attorney would appreciate a telephone call.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **MAIL STOP AMENDMENT, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450**, on this 14th day of April, 2008.

Julie Lalan